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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,561	01/20/2004	Don Felix Widlacki	00006	2613

7590 04/04/2005

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EXAMINER

SWINEHART, EDWIN L

ART UNIT PAPER NUMBER

3617

DATE MAILED: 04/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/761,561	Applicant(s) WIDLACKI, DON FELIX	
	Examiner Ed Swinehart	Art Unit 3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the perpendicular surfaces of claim 4 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. As illustrated, the surfaces are generally aligned with the longitudinal axis of the boat.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Applicant's admission of an offer to sell the claimed device as early as 1998.

Applicant provided copies of letters written to Cabela's, which are admission of an offer for sale, more than one year before filing. Such constitutes a bar.

4. Claims 1-4,6,8 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Miller.

Miller discloses the claimed invention, including a blade e, pivotally and removably attached to the stern of a watercraft.

5. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Coulter.

Coulter discloses a pivotally attached blade shaped as claimed.

6. Claims 1-5,7 and 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Keivanjah.

Keivanjah discloses a fin and a line 90.

7. Claims 1-5 and 7-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Stolzer.

Stolzer teaches a blade, and a spring for controlling position.

8. Applicant's arguments filed 1/10/2005 have been fully considered but they are not persuasive.

Applicant states that the newly filed page of drawing shows the feature of the perpendicular surfaces.

The newly filed page presents a figure virtually the same as that originally filed, and as such, fails to illustrate such surfaces.

Applicant argues that the invention as offered for sale to Cabela's is not the same invention as currently claimed, and offers Exhibits 1 and 2 in support of this argument.

The examiner has reviewed the exhibits, and finds that in fact that the currently claimed invention is in fact the invention offered for sale to Cabela's. Applicant points to the claimed divergence of the top and bottom surfaces as evidence that such are different, however exhibit 1 clearly shows this claimed feature.

Applicant argues that Miller has been erroneously applied since such is primarily a propulsion device.

Miller discloses all the limitations of the claims of which it has been applied against, and application under 102(b) is proper.

Applicant argues that Coulter has been misapplied as was Miller above, and further Coulter fails to show the limitations of claims 2,3,5 and 7.

Re claim 2, such is connected, therefore a connecting means is inherent.

Re claim 3, since the device was connected, it has a connecting means as noted above, and such is inherently a disconnecting means as well.

Re claim 5, note Fig. 1 of Coulter.

Re claim 7, note the lower edge of Fig. 1.

Applicant's arguments re Keivanjah are of the same scope as those directed toward Coulter, and have been noted, but for the same reasons noted above are not persuasive.

Applicant again argues re Stolzer, that such is a propulsion system, not a stabilizing system. Such is no more than a statement of intended use. Furthermore, stabilization will be an inherent feature of all of the prior art applied by the examiner.


9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ed Swinehart whose telephone number is 703-308-2566 (571-272-6688 after 4/11/2005). The examiner can normally be reached on Monday through Thursday 6:30 am to 2:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 703-308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ed Swinehart
Primary Examiner
Art Unit 3617